

Public Comments on Proposed NSR Rule Revisions

**New Source Review Retooling Team
February 10, 2004**

Wisconsin Department of Natural Resources

Public Comment Process

- **4 public hearings**
 - **Eau Claire, Madison, Green Bay & Milwaukee**
 - **8 oral comments received**
- **28 separate sets of written comments**
- **244 comments, 51 in support, 169 in opposition, 24 Neutral**

Those commenting

- Alan Lawrenc
- Barbara Frank
- Carol Terrel - Sierra Club
- Christine Calhoun
- Clean Water Council
- Clean Wisconsin
- Dale Schaber
- Diane Mandler
- Dr. Tim Burch
- Eleanor Wolf
- Jackie Calhoun Smith
- Jennifer Fyrhem - Sierra Club
- Jody Habush Sinykin - MEA
- Laura England
- Luxemburg-Casco Conservation Club
- Rosemary Wehnes - Sierra Club
- Sierra Club
- Tom Clarke
- WI League of Conservation Voters
- Alliant Energy
- Cascades Tissue Group
- Dairyland Power
- Georgia Pacific
- International Paper
- Kohler Company
- Quad/Graphics
- SC Johnson
- W.M.C.
- WI Paper Council
- WI Utilities Association
- Wisconsin Energy Corp
- Xcel Energy

In General

- Do not weaken environmental protection (4)
- Weaken environmental protection (11)
- Provide flexibility and certainty (3)
- Contain 6 loopholes that will allow more pollution (1)
- Add clarity to process through implementation guidance (2)

In General - 2

- WI should adopt federal rule changes as closely as possible (5)
- WI should adopt federal rule changes verbatim (3)
- Provide flexibility and certainty (2)
- Ability to avoid NSR limits public involvement (1)

In General - 3

- Changes are illegal under Clean Air Act (2)
- Changes undermine WI's lawsuit (7)
- Undermine ongoing enforcement actions (2)
- Ability to avoid NSR limits enforceability (2)
- Commend WI for joining lawsuit (1)

In General - 4

- Commend Department action towards change (10)
- WI should not rush to adopt Federal rules (4)
- WI should wait for court decision on suit (16)
- DNR resources should be spent elsewhere (3)

Applicability Test

- Most significant revision to rule (3)
- WI should adopt federal rule changes verbatim (1)
- Ability to avoid NSR limits enforceability (1)
- Ability to avoid NSR limits public involvement (1)

Baseline Actual

- 2 in 10 look back appropriate (1)
- 2 in 10 look back inappropriate (1)
- 2 in 5 period for utilities should be 2 in 10 (1)
- Calculate on pollutant specific basis (3)
- Facilities will use highest emission years (1)
- Same baseline for all pollutants acceptable with exclusion for combustion sources (3)
- Differing baselines across projects inappropriate (1)
- New units should be added using PTE (3)

Projected Actual

- Among most important changes (1)
- Avoids unnecessary permitting (1)
- Does not allow for preconstruction review (1)
- Results in fewer projects subject to permitting (1)
- Should be allowed for new units (1)
- Should use 5 years unless PTE increased (4)

Demand Growth

- Should be included in final rule (10)
- Changes are illegal under Clean Air Act (1)
- Must be evaluated on case-by-case basis (10)
- Separation from project emissions difficult and unenforceable (1)
- Allows for inflated baseline to allowable levels (1)
- Should include a safe harbor (2)

Replacement Units

- Treat as existing units (5)
- Treat as new units (1)
- Limit scope of replacement unit approach (2)
- Jeopardizes replacement of failing equipment (2)
- Rule does not recognize operational history of replaced unit (2)
- Illegal to use operational history (1)

Plantwide Applicability Limits

- Most significant revision to rule (1)
- PAL concept makes sense (1)
- PAL may not be appropriate for all (1)
- Use of baseline emissions appropriate (1)
- 10 year look back results in inflated baselines (1)
- Restricts growth (1)
- Clean Unit opt out beneficial option (1)

Plantwide Applicability Limits - 2

- Avoidance limits must be retained (1)
- Relax previous avoidance limits (1)
- Should not include startup, shut down and malfunction emissions
- New units should be added using PTE (1)
- New units under normal operation should use actual emissions, regardless of operation time (1)

Plantwide Applicability Limits - 3

- Does not allow for preconstruction review (1)
- Does not result in emission reductions (1)
- Should require BACT/LAER (1)
- Declining PAL in Nonattainment Area unnecessary (3)

Clean Units

- Avoids unnecessary permitting (2)
- Incentive to invest in emission control (2)
- Investment requirement not adequately defined (1)
- Projects on Clean Units in NAA must be offset (1)
- Maintain CU status post redesignation (4)
- Comparable to BACT process too weak (1)
- Allow retro CU designation prior to 1/1/01 (3)

Pollution Control Projects

- Primary purpose should be to reduce emissions (1)
- Incentive to invest in emission control (1)
- Should require BACT/LAER (1)
- Avoids unnecessary permitting (1)
- Useable only with minor NSR changes (1)
- Ability to avoid NSR limits public involvement (1)
- 21 day review period reasonable (1)